

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CIVIL REVISION APPLICATION No 544 of 2002

to

CIVIL REVISION APPLICATION No 557 OF 2002

with

CIVIL REVISION APPLICATION No.567 OF 2002

to

CIVIL REVISION APPLICATION No 570 OF 2002

For Approval and Signature:

Hon'ble MR.JUSTICE D.K.TRIVEDI

- =====
1. Whether Reporters of Local Papers may be allowed : YES
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

=====

JALAUDDIN ABHESANG RAJ

Versus

SPECIAL LAND ACQUISITION OFFICER

Appearance:

1. Civil Revision Application No. 544 of 2002

MR AJ PATEL FOR MR JAYESH M PATEL for Petitioner No. 1

MR AD OZA Government Pleader for Respondent No. 1-3

CORAM : MR.JUSTICE D.K.TRIVEDI

Date of decision: 10/05/2002

ORAL JUDGEMENT

As the common question of facts are involved in all these Civil Revision Applications and with the consent of the learned advocates for the parties, I intend to dispose all these civil revision application by this common judgement.

2. Rule. Mr. Oza, learned Government Pleader waives service of Rule on behalf of the respondent. Rule is fixed forthwith. Heard Mr. Patel, learned advocate for the petitioners and Mr. Oza, learned Govt. Pleader for the respondents. During the hearing I was also taken through the judgement and order passed by my brother justice Mr. J.R. Vora in Civil Revision Application No. 1074 of 2001 dated 6th December, 2001 and as per the said order, while disposing of said revision applications, a direction was given to the authority, who have deposited amount of compensation awarded under the Land Acquisition Act before the trial Court by granting 10 weeks time. Para 5 of the said order reads as under :-

"While setting aside the order impugned passed by the learned Assistant Judge on 31.8.2001, it is directed that the learned Assistant Judge shall give time to the respondents for obtaining order in the above said group of appeals for the staying of the execution till 10 weeks from today. If within this 10 weeks no stay is granted on the execution of a decree then the learned Assistant Judge, Bharuch shall make payment to the present applicants - claimants or shall make the payments to the applicants as may be directed by this Court in above mentioned First Appeals, as the case may be. With the above said order this Revision Application is allowed. Rule is made absolute to that extent."

In view of the order passed by the Court, wherein, similarly situated persons in whose favour the amount of compensation is awarded had moved the Court. However, the learned Assistant Judge, Bharuch while deciding the application of the claimants had rejected the said application on the ground that as the order, which was passed by his predecessor on 31st August, 2001 is remained in existence, he has no right to review the same and accordingly, though similarly situated persons in whose favour the Hon'ble High Court has directed to claimants as observed earlier, the request made by the

claimants were rejected.

3. The petitioners have challenged the order passed by the learned Trial Judge in all these revision applications. As found that, against the said judgement and award passed by the Reference Court, the opponent State has filed appeals and the same is pending for admission. Mr. Oza, learned Govt. Pleader has also brought to my notice that all the appeals filed by the State were not tressed-out in the department and accordingly, office of the Govt. Pleader has taken steps for reconstruction of each appeals and as per order dated 22nd March, 2002, the request for reconstruction of the appeals were granted by the Court and even, thereafter, steps were taken to circulate those matters alongwith application for stay. The Civil Department of this court has not placed the matter for admission before the court. It is his submission that the matter is at large before the High Court and in the application for stay, the Court will pass appropriate order and he requests that this court will not entertained the present revision application and prayed for dismissal of the present revision applications. It is not in dispute that as per the award passed by the Reference Court under the Land Acquisition Act, the additional compensation is fixed by the Reference Court and the amount fixed by the Land Acquisition Officer is deposited by the opponent State before the trial Court. The question which this court is required to consider is that though the award was passed long back and the amount is already deposited, whether said amount is ordered to be permitted to be withdrawn by the claimants and further that the State has filed appeals challenging the said award as well as application for stay of the award and as contended by Mr. Oza that he could not obtain any orders as the papers were not placed by the office before the Court.

4. Considering this fact and in light of the order passed earlier by my brother Justice J.R. Vora, which I have already reproduced earlier, wherein, the learned Trial Judge has rejected the application of the claimants, against which, the High Court has given direction to the trial Court for withdrawal of the said amount. The present petitioners were also the claimants and the Reference Court has allowed the Reference partly by granting additional compensation. The protection given to the claimant in CRA No. 1074 of 2001 is also necessary to be applied to the present petitioners and accordingly, on the same terms, this court is inclined to give direction in respect of withdrawal of the amount. Accordingly, while disposing of these revision

applications and setting aside the orders passed by the learned trial Judge, it is directed that the learned Trial Judge shall give time to the respondent State for obtaining orders in group of appeals as well as in applications for stay of the execution of 10 weeks from today. If within these 10 weeks, no stay is granted on the execution of the decree, the learned Trial Judge, Bharuch shall make payment to the petitioners/claimants or shall make the payment to the applicant/claimants as per the order passed in the application for stay by the Hon'ble High Court.

5. With this observation, all these revision applications are allowed. Rule is made absolute to the above extent. There shall be no order as to costs. Liberty is granted to the parties to move during the vacation in case of difficulties.

(D.K.Trivedi, J.)

pallav